



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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June 2, 2016

Targa Sounds Terminal LLC
ATTN: Troy Goodman
2628 Marine View Drive
Tacoma WA 98422

RE: Amendment to 401 Water Quality Certification Order #13194 for U.S. Army Corps of Engineers Reference NWS-2015-337, Targa Sounds Terminal LLC, Hylebos waterway, Pierce County, Washington

Dear Mr. Goodman,

Enclosed is an amendment to Water Quality Certification Order #13194, issued on May 26, 2016, for the above project.

The purpose of this amendment is to correct the water quality standards from “excellent” to “good” use designation.

We have also included a strikeout version of the Water Quality Certification that reflects the changes. If you have any questions, please contact Laura Inouye at (360) 407-6165. The enclosed Amendment may be appealed by following the procedures described in the Amendment.

Sincerely,

Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters Office – Ecology
State of Washington

By certified mail 7015 0640 0006 1040 9944

cc: Tom Bloxton, U.S. Army Corps of Engineers

e-cc: Laura Inouye – HQ
Loree’ Randall – HQ
ecyrefedpermits@ecy.wa.gov
Jason McKinney, Anchor QEA LCC.



**IN THE MATTER OF GRANTING
A WATER QUALITY
CERTIFICATION TO**

Targa Sounds Terminal LLC

In accordance with 33U.S.C. 1341
(FWPCA §401), RCW 90.48.120, RCW
90.48.260 and Chapter 173-201A WAC

) **ORDER #13194, First Amendment**
) **Corps Reference No. NWS-2015-337**
) **(NWP 35)**
) Targa Sounds Terminal LLC maintenance
) dredging Hylebos Waterway, Pierce County,
) Washington
)

TO: Targa Sounds Terminal LLC
ATTN: Troy Goodman
2628 Marine View Drive
Tacoma WA 98422

On May 26, 2016 the Washington Department of Ecology (Ecology) issued a 401 Water Quality Certification to Targa Sounds Terminal LLC for the above-referenced project pursuant to the provisions of 33 U.S.C. 1341 (FWPCA § 401).

Ecology received a request on May 26, 2016 to correct the turbidity standards from excellent use designation (5 NTU over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU) to good use designation (10 NTU over background when the background is 50 NTU or less, or a 20% increase in turbidity when the background turbidity is more than 50 NTU).

Administrative Order No. 13194 dated May 26, 2016 is hereby amended as follows:

The amendment is as follows

I. The conditions number B1, first sub-bullet which reads:

- The area of mixing established for marine waters is a 150 foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 5 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 10% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.

Is replaced with:

- The area of mixing established for marine waters is a 150 foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.

No other conditions or requirements of the above-mentioned order are affected by this amendment.

The Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if it appears necessary to further protect the public interest.

Failure to comply with this amended Order may result in the issuance of civil penalties or other actions whether administrative or judicial, to enforce the terms of this amended Order.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

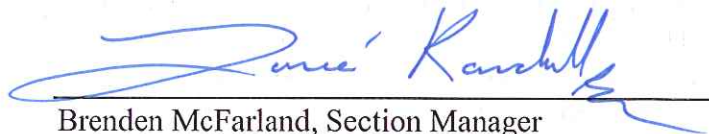
To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903


Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
Headquarters Office – Ecology
State of Washington

June 2, 2016
Date

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June 2, 2016- First amendment changes are reflected in Red.

IN THE MATTER OF GRANTING A)	ORDER #13194
WATER QUALITY)	Corps Reference No. NWS-2015-337
CERTIFICATION TO)	(NWP 35)
Targa Sounds Terminal LLC)	Targa Sounds Terminal LLC maintenance
in accordance with 33 U.S.C. 1341)	dredging Hylebos Waterway, Pierce County,
(FWPCA § 401), RCW 90.48.120, RCW)	Washington
90.48.260 and Chapter 173-201A WAC)	

TO: Targa Sounds Terminal LLC
ATTN: Troy Goodman
2628 Marine View Drive
Tacoma WA 98422

On July 14, 2015 Targa Sounds Terminal LLC submitted a Joint Aquatic Resources Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by the Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on May 3, 2016.

This project includes maintenance dredging of approximately 7,500 cy of sediment to a depth of -32 ft MLLW at the berthing area of the Targa Sound Terminal in the Hylebos Waterway in Tacoma, Washington. Material is unsuitable for in-water disposal and will be taken to an appropriate upland disposal site.

Note: The U.S. Corps of Engineers issued a Nationwide Permit (NWP) 35, Maintenance Dredging of Existing Basins authorizing this project.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and

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3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the Targa Sounds Terminal LCC and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or fednotification@ecy.wa.gov. Any submittals shall reference Order 13194 and Corps Reference # NWS-2015-337.
3. All notifications listed below shall be made via phone to Laura Inouye, (360)-407-6165, or e-mail at fednotification@ecy.wa.gov. These notifications shall be identified with Order 13194 and include the Applicant's name, the project contact, and the contact's phone number.
 - a. At least ten (14) days prior to conducting initial in-water work activities for each in-water work window.
 - b. Within at least seven (7) days after completion of each in-water work window.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on December 28, 2015, unless otherwise authorized by Ecology.

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5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
10. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
11. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
12. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
13. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.
14. This Order will automatically transfer to a new owner or operator if:

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- a. A written agreement between the Applicant and new owner or operator with the specific transfer date of the Order's obligations, coverage, and liability is submitted to Ecology per condition A.2.;
- b. A copy of this Order is provided to the new owner or operator; and
- c. If Ecology does not notify the new Applicant that this Order must be modified to complete the transfer.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A-210(1).
 - The area of mixing established for marine waters is a 150 foot radius surrounding the in-water activity. Turbidity occurring outside that zone that is more than ~~5~~**10** nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a ~~10~~**20**% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.
 - Visible turbidity anywhere at 150 ft point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.

C. Water Quality Monitoring

1. The Applicant shall follow the Water Quality Monitoring Plan for Targa Sound Terminal- Hylebos Waterway Navigational Maintenance Dredging dated May 2016 and approved by Ecology on May 25, 2016.
2. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal permit coordinator as per Condition A2. The permit coordinator shall be contacted within 2 hours if an exceedance occurs when dredging material unsuitable for in-water disposal, and within 24 hours if an exceedance occurs when dredging material suitable for in-water disposal or other project activities.

D. Dredging and Disposal Conditions:

1. All dredging is to be done using a clamshell dredge. **Use of any other type of dredge requires preapproval from Ecology.**
2. All dredge material was unsuited for in-water disposal. The material must be transloaded using an Ecology approved plan and disposed of at an Ecology approved location.

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- a. **A transload plan that includes appropriate BMPs for containing the sediment and associated water must be submitted for review and approval to Ecology at least 30 days prior to the pre-dredge meeting (Condition D10).**
3. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
4. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.
5. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water. All debris (larger than 2 feet in any dimension) found floating in the dredging area shall be removed and disposed of appropriately.
6. The scow shall not be overfilled to the point where dredge material overtops the sidewalls.
7. Caution shall be used when placing material from the bucket into the scow to limit splash and prevent spillage.
8. Barges, tugs and other vessels associated with the dredging will not be allowed to ground out.
9. The Dredge operator shall pause the bucket at the surface, after its ascent through the water column, to minimize turbidity by allowing free water to drain from the bucket prior to swinging the bucket to the bottom dump scow.
10. A pre-dredge meeting is required to be convened at least 2 weeks prior to the start of dredging unless otherwise approved by Ecology. A **Dredging Plan** is required and shall be submitted to Ecology to the 401/CZM Federal permit coordinator at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-construction meeting.
11. Prior to each dredging cycle, the Applicant shall contact the DMMP agencies to determine whether additional sediment testing is required. If additional testing is required, no dredging or disposal shall be conducted until the material has been tested and a suitability determination has been issued. This area ranks high in potential for contamination and the recency determination extends until April 2018. Contact the DMMO for a possible suitability determination extension.

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E. Timing Requirements:

1. All in-water work shall be between July 16 through December 31 and between January 1 and February 15 of any year. Any project change that requires a new or revised HPA should also be sent to Ecology for review.
2. This Order shall remain in effect for a period of 5 years from date of issuance. Continuing this project beyond the 5 year term of this Order will require separate certifications every 5 years.

F. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
 - a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's 401/CZM Federal permit coordinator at (360) 407-6165.
 - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.

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4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

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